

or to identified categories of records that may be provided during the course of the parties' relationship;

- b. describes the procedures the consumer must use to withdraw consent and to update information needed to contact the consumer electronically; and
 - c. informs the consumer how the consumer may nonetheless request a paper copy of a record and whether any fee will be charged for that copy.
4. Determine that the consumer, prior to consenting, is provided with a statement of the hardware and software requirements for access to and retention of electronic records.
 5. Determine that the consumer provides affirmative consent electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent.
- NOTE: Oral communications shall not qualify as an electronic record.*
6. If a change in the hardware or software requirements needed to access or retain electronic records creates a material risk that the consumer will not be able to access or retain subsequent electronic records subject to the consent, verify that the financial institution provides the consumer with the following:
 - a. statement of the revised hardware and software requirements for access to and retention of electronic records;
 - b. the right to withdraw consent without the imposition of any condition, consequence, or fee for such withdrawal; and
 - c. the consumer provides a new affirmative consent as previously outlined.
 7. Determine that the financial institution maintains a single "authoritative" copy of any transferable record relating to a loan secured by real property. Such record must be "unique", "identifiable", and "unalterable".
 8. Determine that the financial institution maintains electronic records accurately reflecting the information contained in

applicable contracts, notices, or disclosures and that they remain accessible to all persons who are legally entitled to access for the period required by law in a form that is capable of being accurately reproduced for later reference.

References

FIL 79-98: Interagency Guidance on Electronic Financial Services and Consumer Compliance

<http://www.fdic.gov/news/news/financial/1998/fil9879.html>

Guidance Attachment

<http://www.fdic.gov/news/news/financial/1998/fil9879a.pdf>

FIL 66-2001: Lifting of Mandatory Compliance Date for Interim Rules Amending Regulations B, E, M, Z, and DD

<http://www.fdic.gov/news/news/financial/2001/fil0166.html>

FIL 40-2001: Interim Final Rules Amending Regulations B, E, M, Z, and DD Regarding Electronic Delivery of Required Disclosures

<http://www.fdic.gov/news/news/financial/2001/fil0140.html>

FIL 72-2000: Notice of Consumer Consent Requirements

Applicable to the Electronic Delivery of Consumer Disclosures

<http://www.fdic.gov/news/news/financial/2000/fil0072.html>

DCA RD Memo 96-044: Electronic Banking Activities

<http://fdic01/division/dsc/memos/memos/direct/6480-1.pdf>

FIL 14-97: Examination Guidance on the Safety and Soundness Aspects of Electronic Banking Activities,

<http://www.fdic.gov/news/news/financial/1997/fil9714.html>

FIL 70-2001: FDIC Seeks Comment on Study of Banking Regulations Regarding the Online Delivery of Banking Services

<http://www.fdic.gov/news/news/financial/2001/fil0170.html>

FIL 30-2003: Federal Bank and Credit Union Regulatory Agencies Jointly Issue Guidance on the Risk Associated with Weblinking

<http://www.fdic.gov/news/news/financial/2003/fil0330.html>

Attachment

<http://www.fdic.gov/news/news/financial/2003/fil0330a.html>